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NOV 20 2017

November 14, 2017

**VIA CERTIFIED MAIL**

Mark D. Soiland, Chief Executive Officer  
Soiland Co., Inc.  
7171 Stony Point Road  
Cotati, CA 94931

Marlene K. Soiland, Secretary, Chief Financial  
Officer, and Agent for Service of Process  
Soiland Co., Inc.  
7171 Stony Point Road  
Cotati, CA 94931

**Re: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE  
FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")  
(33 U.S.C. §§ 1251 *et seq.*)**

Dear Mark and Marlene Soiland:

This firm represents California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at Stony Point Rock Quarry's ("SPRQ") aggregate and soil processing facility located at 7171 Stony Point Road, in Cotati, California (the "Facility"). This letter is being sent to you as the responsible owners, officers and/or operators of the Facility, or as the registered agent for this entity. Unless otherwise noted, Mark Soiland, Marlene Soiland, Soiland Co., Inc. and Stony Point Rock Quarry shall hereinafter be collectively referred to as "SPRQ." The purpose of this letter is to provide SPRQ with notice of the violations of the Industrial General Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water associated with industrial activities from the Facility into local surface waters.

SPRQ is in ongoing violation of the substantive and procedural requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 14-57-DWQ ("General Permit" or "Permit").<sup>1</sup> Prior to July 1, 2015, SPRQ's storm water discharges were regulated under Water Quality Order No. 91-13-DWQ, as amended by Water Quality Orders 92-12-DWQ and 97-03-DWQ.

On July 1, 2015 the 2015 General Permit went into effect, superseding the 1997 General Permit that was operative between 1997 and June 30, 2015. The 2015 General Permit includes many of the same fundamental requirements and implements many of the same statutory

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<sup>1</sup> SPRQ submitted a Notice of Intent (NOI) to comply with the General Permit for the Cotati Facility on or about June 8, 2015.

requirements as the 1997 General Permit. Violation of both the 1997 and 2015 General Permit provisions is enforceable under the law. General Permit, Finding A.6.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects SPRQ to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations occurring after January 12, 2009 and \$51,570 per day per violation for all violations that occurred after November 2, 2015.

In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees, including attorneys' fees.

The Clean Water Act requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. § 135.2.

As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facility. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, CSPA intends to file suit under Section 505(a) of the Act in federal court against SPRQ for violations of the Clean Water Act and the Permit.

## **I. Background.**

### **A. California Sportfishing Protection Alliance**

CSPA is a non-profit association dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of California waters, including the waters into which SPRQ discharges polluted storm water. Members of CSPA enjoy the waters that the Facility discharges into, including Washoe Creek, Laguna de Santa Rosa, Santa Rosa Creek, Mark West Creek and the Russian River. Members of CSPA use and enjoy these waters for fishing, estuarine habitat and the rare, threatened and endangered species it supports, the wildlife habitat, marine habitat, and other designated beneficial uses. The discharge of pollutants from the Facility impairs each of these uses. Further, discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by SPRQ's failure to comply with the Clean Water Act and the General Permit.

### **B. The Clean Water Act.**

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. The Act prohibits

the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco BayKeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env'tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants not specifically allowed by a NPDES permit is illegal. *Ecological Rights Found. v. Pacific Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342

### **C. California's General Permit for Storm Water Discharges Associated with Industrial Activities**

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which CSPA refers to as the "1997 General Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. For purposes of this notice letter, CSPA refers to the reissued permit as the "2015 General Permit." Accordingly, SPRQ is liable for violations of the 1997 General Permit and ongoing violations of the 2015 General Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expire permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.*

Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA.

The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, receiving water limitations and effluent limitations; (2) Storm Water

Pollution Prevention Plan (“SWPPP”) requirements; and (3) self-monitoring and reporting requirements.

#### **D. SPRQ’s Cotati Facility**

Information available to CSPA indicates that SPRQ’s industrial activities at the approximately 80-acre Facility include, but are not limited to: aggregate and rock material crushing, processing, stockpiling and recycling (concrete, tile, porcelain and asphalt shingles); and a landscape materials yard. The Facility also includes an approximately 17-acre rock quarry as well as a shop, equipment fluids storage areas, and a network of dirt roads that provide connectivity between the various industrial areas. The industrial activities at the Facility fall under Standard Industrial Classification (“SIC”) Code 1442 (“Construction Sand and Gravel”).

SPRQ collects and discharges storm water associated with industrial activities at the Facility through at least five (5) discharge points into Washoe Creek, which drains to Laguna de Santa Rosa, then to Santa Rosa Creek and then to Mark West Creek, before joining the Russian River. Washoe Creek, Laguna de Santa Rosa, Santa Rosa Creek, Mark West Creek and the Russian River are waters of the United States within the meaning of the Clean Water Act.

According to the 2012 303(d) List of Impaired Water Bodies, Russian River Hydrologic Unit, Middle Russian River Hydrologic Area downstream of the Facility is impaired for: Indicator Bacteria, Nitrogen, Dissolved Oxygen, Sediment/Siltation, and Temperature.<sup>2</sup> Polluted discharges from industrial sites, such as the Facility, contribute to the degradation of these already impaired surface waters and aquatic-dependent wildlife.

The areas of industrial activity at the Facility are sources of pollutants. The General Permit requires SPRQ to analyze storm water samples for TSS, pH, and Oil and Grease. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Code 1442 must also analyze storm water samples for Nitrate plus Nitrite Nitrogen (“N+N”). 1997 General Permit, Tables 1-2; 2015 General Permit Tables 1-2.

## **II. SPRQ’s Violations of the Act and Permit.**

Based on its review of available public documents, CSPA is informed and believes that SPRQ is in ongoing violation of both the substantive and procedural requirements of the CWA and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, SPRQ is subject to penalties for violations of the Act since November 14, 2012.

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<sup>2</sup> 2012 Integrated Report – All Assessed Waters, *available at* [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2012.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml) (last accessed November 13, 2017).

**A. SPRQ Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations and Effluent Limitations.**

SPRQ's storm water sampling results provide conclusive evidence of SPRQ's failure to comply with the General Permit's discharge prohibitions, receiving water limitations and effluent limitations. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

**1. Applicable Water Quality Standards.**

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D. Furthermore, storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are also required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water best management practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The *Water Quality Control Plan for the North Coast Region (Revised May 2011)* ("Basin Plan") sets forth water quality standards and prohibitions applicable to SPRQ's storm water discharges. The Basin Plan identifies present and potential beneficial uses for the Russian River Hydrologic Unit, which include municipal and domestic water supply, hydropower generation, agricultural supply, industrial service supply, navigation, wildlife habitat, warm freshwater habitat, cold freshwater habitat, warm and cold spawning, and contact and non-contact water recreation.

**2. Applicable Effluent Limitations.**

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable ("BAT") for toxic



and nonconventional pollutants and best conventional pollutant control technology ("BCT") for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA ("EPA benchmarks") serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F. Supp. 2d 914, 920, 923 (C.D. Cal 2009); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by SPRQ: Total Suspended Solids – 100 mg/L; Oil & Grease – 15.0 mg/L; pH – 6.0-9.0 s.u. and Nitrate plus Nitrite Nitrogen – 0.68 mg/L.

### 3. SPRQ's Storm Water Sample Results

The following discharges of pollutants from the Facility have violated the discharge prohibitions, receiving water limitations and effluent limitations of the Permit:

#### a. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentrations in Excess of Applicable EPA Benchmark Value

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
4/7/2017	CSP #1	TSS	120	100
4/7/2017	CSP #3	TSS	210	100
4/7/2017	CSP #4	TSS	150	100
3/21/2017	CSP #5	TSS	130	100
2/17/2017	CSP #3	TSS	120	100
2/16/2017	CSP #5	TSS	120	100
1/18/2017	CSP #1	TSS	550	100
1/18/2017	CSP #2	TSS	110	100
1/18/2017	CSP #3	TSS	270	100
1/18/2017	CSP #4	TSS	210	100
1/18/2017	CSP #5	TSS	200	100
10/25/2016	CSP #3	TSS	200	100
10/25/2016	CSP #4	TSS	160	100
10/25/2016	CSP #5	TSS	120	100
1/29/2016	CSP #3	TSS	150	100
1/29/2016	CSP #4	TSS	180	100

1/29/2016	CSP #5	TSS	120	100
1/5/16	CSP #3	TSS	360	100
1/5/16	CSP #5	TSS	140	100
12/10/2015	CSP #2	TSS	1200	100
12/10/2015	CSP #3	TSS	140	100
12/10/2015	CSP #4	TSS	330	100

**b. Discharge of Storm Water Containing Nitrate plus Nitrite Nitrogen (N+N) at Concentrations in Excess of Applicable EPA Benchmark Values**

Date	Discharge Point	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark Value (mg/L)
4/7/2017	CSP #3	N+N	0.72	0.68
4/7/2017	CSP #5	N+N	3.7	0.68
3/21/2017	CSP #3	N+N	1.2	0.68
3/21/2017	CSP #5	N+N	3.6	0.68
2/17/2017	CSP #3	N+N	1.4	0.68
2/16/2017	CSP #5	N+N	2.6	0.68
2/6/2017	CSP #1	N+N	0.98	0.68
2/6/2017	CSP #2	N+N	0.71	0.68
2/6/2017	CSP #5	N+N	1.6	0.68
1/18/2017	CSP #2	N+N	0.83	0.68
1/18/2017	CSP #5	N+N	3	0.68
12/23/2016	CSP #5	N+N	3.8	0.68
12/8/2016	CSP #3	N+N	2.9	0.68
12/8/2016	CSP #5	N+N	2.9	0.68
11/23/2016	CSP #2	N+N	0.92	0.68
11/23/2016	CSP #5	N+N	2.8	0.68
10/25/2016	CSP #1	N+N	1	0.68
10/25/2016	CSP #2	N+N	1.2	0.68
10/25/2016	CSP #3	N+N	1.8	0.68
10/25/2016	CSP #5	N+N	2.1	0.68
2/18/16	CSP #5	N+N	3.6	0.68
1/29/2016	CSP #2	N+N	0.8	0.68
1/5/16	CSP #1	N+N	3.9	0.68
1/5/16	CSP #2	N+N	1.2	0.68
1/5/16	CSP #4	N+N	0.8	0.68
12/21/2015	CSP #1	N+N	2	0.68
12/21/2015	CSP #2	N+N	4.4	0.68
12/21/2015	CSP #4	N+N	0.69	0.68



12/21/2015	CSP #5	N+N	3.8	0.68
12/10/2015	CSP #2	N+N	2.2	0.68
12/10/2015	CSP #6	N+N	1.6	0.68

**c. Discharge of Storm Water with a pH Outside EPA Benchmark and CTR Values**

Date	Discharge Point	Parameter	Sample Result (s.u.)	EPA Benchmark Value (s.u.)	CTR Criteria (s.u.)
3/21/2017	CSP #3	pH	5.5	6.0 – 9.0	6.5 – 9.0
3/21/2017	CSP #4	pH	5.5	6.0 – 9.0	6.5 – 9.0
3/21/2017	CSP #5	pH	6	6.0 – 9.0	6.5 – 9.0
3/21/2017	CSP #6	pH	5.5	6.0 – 9.0	6.5 – 9.0
2/17/2017	CSP #3	pH	6	6.0 – 9.0	6.5 – 9.0
2/17/2017	CSP #4	pH	6	6.0 – 9.0	6.5 – 9.0
2/17/2017	CSP #6	pH	5.5	6.0 – 9.0	6.5 – 9.0
2/6/2017	CSP #3	pH	5.5	6.0 – 9.0	6.5 – 9.0
2/6/2017	CSP #4	pH	5.5	6.0 – 9.0	6.5 – 9.0
2/6/2017	CSP #6	pH	5.5	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #1	pH	6	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #2	pH	6	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #3	pH	5.5	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #4	pH	5.5	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #5	pH	5.5	6.0 – 9.0	6.5 – 9.0
1/18/2017	CSP #6	pH	5.5	6.0 – 9.0	6.5 – 9.0
12/23/2016	CSP #1	pH	6	6.0 – 9.0	6.5 – 9.0
12/23/2016	CSP #2	pH	6	6.0 – 9.0	6.5 – 9.0
12/23/2016	CSP #5	pH	6	6.0 – 9.0	6.5 – 9.0
12/8/2016	CSP #1	pH	6	6.0 – 9.0	6.5 – 9.0
12/8/2016	CSP #5	pH	6	6.0 – 9.0	6.5 – 9.0
11/23/2016	CSP #2	pH	6	6.0 – 9.0	6.5 – 9.0

**d. SPRQ 's Sample Results Are Evidence of Violations of the General Permit**

SPRQ's sample results demonstrate violations of the Permit's discharge prohibitions, receiving water limitations and effluent limitations set forth above. CSPA is informed and believes that SPRQ has known that its storm water contains pollutants at levels exceeding General Permit standards since at least November 14, 2012.



CSPA alleges that such violations occur each time storm water discharges from the Facility. Attachment A hereto, sets forth the specific rain dates on which CSPA alleges that SPRQ has discharged storm water containing impermissible levels of TSS, O&G, pH, and N+N in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B.

#### **4. SPRQ Has Failed to Implement BAT and BCT**

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

SPRQ has failed to implement the minimum BMPs required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. Permit, Section X.H.1(a-g).

SPRQ has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day that SPRQ have failed to develop and implement BAT and BCT at the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). SPRQ have been in violation of the BAT and BCT requirements at the Facility every day since at least November 14, 2012.

#### **5. SPRQ Has Failed to Implement an Adequate Monitoring Implementation Plan.**

The General Permit requires dischargers to implement a Monitoring Implementation Plan. Permit, Section X.I. As part of their monitoring plan, dischargers must identify all storm water discharge locations. Permit, Section X.I.2. Dischargers must then conduct monthly visual observations of each drainage area, as well as visual observations during discharge sampling events. General Permit, Section XI.A.1 and 2.

Dischargers must collect and analyze storm water samples from two (2) storm events within the first half of each reporting year (July 1 to December 31) and two (2) storm events

during the second half of each reporting year (January 1 to June 3). General Permit, Section XI.B. Section XI.B requires dischargers to sample and analyze during the wet season for basic parameters such as pH, total suspended solids (“TSS”) and oil and grease (“O&G”), certain industry-specific parameters set forth in Table 2 of the General Permit, and other pollutants likely to be in the storm water discharged from the facility based on the pollutant source assessment. Permit, Section XI.B.6. Dischargers must submit all sampling and analytical results via SMARTS within thirty (30) days of obtaining all results for each sampling event. Section XI.B.11.

SPRQ has failed to develop and implement an adequate Monitoring Implementation Plan. Each day that SPRQ has failed to develop and implement an adequate Monitoring Implementation Plan is a separate and distinct violation of the Act and Permit. SPRQ has been in violation of the Monitoring Implementation Plan requirements every day since at least November 14, 2012.

**6. SPRQ Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.**

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board’s Storm Water Multiple Application and Report Tracking System (“SMARTS”) their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

CSPA’s investigation indicates that SPRQ has been operating with an inadequately developed or implemented SWPPP in violation of General Permit requirements. SPRQ has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, resulting in the Facility’s numerous effluent limitation violations.

Each day SPRQ failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. SPRQ has been in violation of these requirements at the Facility every day since at least November 14, 2012.

**6. SPRQ Has Failed to File Timely, True and Correct Reports.**

Section XVI. of the Permit requires dischargers to submit an Annual Report by July 15th of each reporting year to the Regional Board. The Annual Report must be signed and certified by a discharger's Legally Responsible Person, or Duly Authorized Representative. Permit, Sections XVI.A, XXI.K. The Annual Report must include a compliance checklist, certifying compliance with the General Permit and an explanation of any non-compliance. Permit, Section XVI.B.

CSPA's investigations indicate that SPRQ has submitted incomplete Annual Reports and purported to comply with the Permit despite significant noncompliance at the Facility.

**III. Persons Responsible for the Violations.**

CSPA puts SPRQ on notice that they are the persons and entities responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts SPRQ on formal notice that it intends to include those persons in this action.

**IV. Name and Address of Noticing Parties.**

The name, address and telephone number of each of the noticing parties is as follows:

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance  
3536 Rainer Avenue  
Stockton, CA 95204  
(209) 464-5067

**V. Counsel.**

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Andrew L. Packard  
William N. Carlon  
Law Offices Of Andrew L. Packard  
245 Kentucky Street, Suite B3  
Petaluma, CA 94952  
(707) 782-4060  
andrew@packardlawoffices.com

**VI. Conclusion**

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against SPRQ and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew L. Packard", with a stylized flourish at the end.

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Andrew L. Packard  
Law Offices of Andrew L. Packard  
Counsel for CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE



**SERVICE LIST**

**VIA CERTIFIED MAIL**

Scott Pruitt, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

Jeff Sessions, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Eileen Sobeck, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Matthias St. John, Executive Officer  
North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard Suite A  
Santa Rosa, CA 95403

**ATTACHMENT A**  
**Notice of Intent to File Suit, SPRQ**  
**Significant Rain Events,\* November 14, 2012 – November 14, 2017**

November 16, 2012	April 8, 2013	April 27, 2014	April 6, 2015
November 17, 2012	May 28, 2013	July 22, 2014	April 25, 2015
November 18, 2012	June 10, 2013	August 5, 2014	May 14, 2015
November 20, 2012	June 25, 2013	September 18, 2014	June 1, 2015
November 21, 2012	June 26, 2013	September 25, 2014	June 10, 2015
November 28, 2012	September 21, 2013	September 27, 2014	July 9, 2015
November 29, 2012	September 22, 2013	October 20, 2014	July 10, 2015
November 30, 2012	September 30, 2013	October 25, 2014	September 16, 2015
December 1, 2012	October 1, 2013	October 26, 2014	October 28, 2015
December 2, 2012	November 18, 2013	October 31, 2014	November 2, 2015
December 3, 2012	November 19, 2013	November 13, 2014	November 8, 2015
December 5, 2012	December 7, 2013	November 19, 2014	November 9, 2015
December 6, 2012	January 11, 2014	November 20, 2014	November 15, 2015
December 12, 2012	January 29, 2014	November 21, 2014	November 24, 2015
December 13, 2012	January 30, 2014	November 22, 2014	December 3, 2015
December 16, 2012	February 2, 2014	November 28, 2014	December 5, 2015
December 17, 2012	February 6, 2014	November 29, 2014	December 9, 2015
December 18, 2012	February 7, 2014	December 1, 2014	December 10, 2015
December 21, 2012	February 8, 2014	December 2, 2014	December 12, 2015
December 22, 2012	February 9, 2014	December 3, 2014	December 13, 2015
December 23, 2012	February 10, 2014	December 4, 2014	December 20, 2015
December 24, 2012	February 14, 2014	December 5, 2014	December 21, 2015
December 25, 2012	February 16, 2014	December 6, 2014	December 22, 2015
December 26, 2012	February 26, 2014	December 8, 2014	December 24, 2015
December 29, 2012	February 27, 2014	December 11, 2014	December 28, 2015
January 6, 2013	February 28, 2014	December 12, 2014	January 3, 2016
January 24, 2013	March 1, 2014	December 13, 2014	January 4, 2016
February 7, 2013	March 2, 2014	December 15, 2014	January 5, 2016
February 8, 2013	March 3, 2014	December 16, 2014	January 6, 2016
February 19, 2013	March 6, 2014	December 17, 2014	January 7, 2016
February 20, 2013	March 10, 2014	December 18, 2014	January 9, 2016
March 6, 2013	March 25, 2014	December 19, 2014	January 10, 2016
March 7, 2013	March 26, 2014	December 21, 2014	January 12, 2016
March 20, 2013	March 27, 2014	December 24, 2014	January 13, 2016
March 21, 2013	March 29, 2014	January 16, 2015	January 16, 2016
March 31, 2013	March 31, 2014	February 6, 2015	January 17, 2016
April 1, 2013	April 1, 2014	February 7, 2015	January 18, 2016
April 2, 2013	April 2, 2014	February 8, 2015	January 19, 2016
April 4, 2013	April 4, 2014	February 9, 2015	January 20, 2016
April 5, 2013	April 25, 2014	March 11, 2015	January 22, 2016
April 6, 2013	April 26, 2014	March 23, 2015	January 23, 2016

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

**ATTACHMENT A**  
**Notice of Intent to File Suit, SPRQ**  
**Significant Rain Events,\* November 14, 2012 – November 14, 2017**

January 29, 2016	November 15, 2016	February 19, 2017
February 1, 2016	November 19, 2016	February 20, 2017
February 2, 2016	November 20, 2016	February 21, 2017
February 17, 2016	November 23, 2016	March 4, 2017
February 18, 2016	November 25, 2016	March 5, 2017
February 19, 2016	November 27, 2016	March 6, 2017
February 27, 2016	December 8, 2016	March 20, 2017
March 3, 2016	December 9, 2016	March 21, 2017
March 4, 2016	December 10, 2016	March 22, 2017
March 5, 2016	December 11, 2016	March 24, 2017
March 6, 2016	December 14, 2016	March 27, 2017
March 7, 2016	December 15, 2016	April 6, 2017
March 9, 2016	December 23, 2016	April 7, 2017
March 10, 2016	January 2, 2017	April 8, 2017
March 11, 2016	January 3, 2017	April 12, 2017
March 12, 2016	January 4, 2017	April 13, 2017
March 13, 2016	January 5, 2017	April 16, 2017
March 14, 2016	January 7, 2017	April 17, 2017
March 20, 2016	January 8, 2017	April 18, 2017
March 21, 2016	January 9, 2017	April 20, 2017
April 9, 2016	January 10, 2017	April 26, 2017
April 10, 2016	January 11, 2017	June 8, 2017
April 15, 2016	January 12, 2017	June 12, 2017
April 22, 2016	January 18, 2017	September 7, 2017
April 23, 2016	January 19, 2017	
April 27, 2016	January 20, 2017	
May 5, 2016	January 21, 2017	
May 7, 2016	January 22, 2017	
May 8, 2016	January 23, 2017	
October 3, 2016	January 24, 2017	
October 14, 2016	February 2, 2017	
October 15, 2016	February 3, 2017	
October 16, 2016	February 4, 2017	
October 24, 2016	February 6, 2017	
October 25, 2016	February 7, 2017	
October 27, 2016	February 8, 2017	
October 28, 2016	February 9, 2017	
October 29, 2016	February 10, 2017	
October 30, 2016	February 16, 2017	
October 31, 2016	February 17, 2017	
November 1, 2016	February 18, 2017	

\* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.